IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6889 OF 2004

Prakash Anantrao Gulekar ...Petitioner

Versus

Pramila Pandurang Gulekar & Ors. ...Respondents

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Ms. Gauri Godse, counsel for Petitioner

Mr. P.S. Dani, counsel for Respondents 2 to 6.

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CORAM: B. H. MARLAPALLE, J.

DATED: 30TH MARCH, 2005

P. C.:-

1. Heard Ms. Godse, the learned counsel for the petitioner.

2. In Regular Darkhast No. 8 of 1994 an application at Exh.36 came to be filed for bringing the legal heirs of one of the deceased Judgment Debtor on record and the same was objected to by the petitioner. It was contended that the application was filed after lapse of about three years and therefore, the Darkhast proceedings stood abated. This objection has been over ruled by the trial court vide impugned order dated 27.4.2004. The trial Court has relied upon the decision of this Court in the case of **Annasaheb Rajaram Nagane & Anr. Vs. Rajaram**

Maruti Nagane [2001 (3) Mh.L.J. 53]. It also refers to the order passed by it below the application at Exh. 32 and 33 holding that the limitations could not be applicable to the execution proceedings.

3. Anantrao Gulekar was one of the Judgment Debtors and his legal heirs were sought to be brought on record by an application at Exh.36. It is not the case of the present petitioner that he had given a written intimation to the decree holders regarding the demise of Anantrao Gulekar and therefore, the application was filed belatedly.

4. The trial Court has considered the arguments advanced by the respective parties and rejected the objection and allowed the application so as to bring the legal heirs of decree holders on record i.e. late Shri. Anantrao Gulekar. The impugned order cannot be termed as perverse or patently erroneous so as to cause interference while exercising the powers of superintends under Article 227 of the Constitution.

5. The petition is rejected summarily.